

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

MILLENNIUM FUNDING, INC., et al,

Plaintiffs,

v.

WICKED TECHNOLOGY LIMITED et al.,

Defendants.

Civil Action No. 1:21-cv-00282-RDA-TCB

PLAINTIFFS' OBJECTION TO THE REPORT AND RECOMMENDATION

Plaintiffs MILLENNIUM FUNDING, INC., EVE NEVADA, LLC, HUNTER KILLER PRODUCTIONS, INC., BODYGUARD PRODUCTIONS, INC., GUNFIGHTER PRODUCTIONS, LLC, MILLENNIUM IP, INC., VOLTAGE HOLDINGS, LLC, KILLING LINK DISTRIBUTION, LLC, LHF PRODUCTIONS, INC., RAMBO V PRODUCTIONS, INC., NIKOLA PRODUCTIONS, INC., OUTPOST PRODUCTIONS, INC., WONDER ONE, LLC and 42 VENTURES, LLC ("Plaintiffs"), by and through their counsel, submit their objection to the Report and Recommendation ("R&R") [Doc. #64] of Oct. 15, 2021 pursuant to 28 U.S.C. §636 and Rule 72(b) of the *Federal Rules of Civil Procedure*.

Plaintiffs' amended proposed order [Doc. #63-1] submitted on Oct. 13, 2021 limiting the scope of their requested injunctive relief to Defendant Doe d/b/a POPCORNTIME.APP ("Defendant Doe") included proposed language ordering Defendant Doe to transfer the domain to 42 Ventures, LLC and permitting Plaintiff 42 Ventures, LLC to serve the injunction on the registry of record with a request that the registry facilitate the transfer of the domain to the control of Plaintiff 42 if Defendant fails to comply with the proposed order.

The carefully well written R&R clearly sets forth Defendant Doe's copyright infringements, trademark infringements and DCMA violations and how Defendant Doe has created a new domain to continue its infringing activities despite the preliminary injunction. *See* R&R at pg. 11 (Defendant directed users to a new domain and left message for Plaintiffs' counsel in a subreddit forum describing the piracy app as "bulletproof").

Although the R&R "finds that injunctive relief is appropriate and the best means to prevent future harm to Plaintiff 42 due to Defendant Doe's continuing use of the counterfeit mark...", it only recommends that the Court order Defendant Doe to "(c) cease using the Trademark Popcorn Time". R&R at pgs. 28 and 32. However, absent an injunction ordering Defendant Doe to transfer the domain to Plaintiff 42 Ventures, LLC, it will likely continue to use the domain to infringe Plaintiffs' rights. Accordingly, Plaintiffs respectfully request the injunction further order Defendant Doe to transfer the domain POPCORNTIME.APP to the control of Plaintiff 42 Ventures, LLC within five days of receipt of this Judgment.

DATED: Kailua Kona, HI, Oct. 24, 2021.

Respectfully submitted,

/s/ Kerry S. Culpepper

Kerry S. Culpepper,
Virginia Bar No. 45292
Counsel for Plaintiffs
CULPEPPER IP, LLC
75-170 Hualalai Road, Suite B204
Kailua-Kona, Hawai'i 96740
Tel.: (808) 464-4047
Fax.: (202) 204-5181
kculpepper@culpepperip.com
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on Oct. 24, 2021, a true and correct copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to the following:

Benjamin E. Maskell, Esquire
MASKELL LAW PLLC
937 N. Daniel St.
Arlington, VA 22201
Email: Ben@MaskellLaw.com
Counsel for Defendants Wicked Technology Limited, VPN.HT Limited, and Mohamed Amine Faouani

Mary Declan Hallerman
Snell & Wilmer L.L.P.
2001 K Street, N.W.
Suite 425 North
Washington, D.C. 20006
Email: mhallerman@swlaw.com, docket_den@swlaw.com
Counsel for non-party Google, LLC

I further certify that on Oct. 24, 2021 a true and correct copy of the foregoing was served by email to the following:

JOHN OR JANE DOE d/b/a POPCORNTIME.APP	hello@popcorntime.sh
JOHN OR JANE DOE d/b/a POPCORNTIME.APP	7efd1e7ec8dd9cc42c87d178fb98497d-19003537@contact.gandi.net

DATED: Kailua Kona, HI, Oct. 24, 2021.

Respectfully submitted,

/s/ Kerry S. Culpepper

Kerry S. Culpepper,
Virginia Bar No. 45292
Counsel for Plaintiffs
CULPEPPER IP, LLC
75-170 Hualalai Road, Suite B204
Kailua-Kona, Hawai'i 96740
Tel.: (808) 464-4047
Fax.: (202) 204-5181
kculpepper@culpepperip.com
Attorney for Plaintiffs